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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,691	06/13/2001	John D. Widdemer	P-01143	4303

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06/23/2003

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/23/2003

ef

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,691

Applicant(s)

WIDDEMER, JOHN D.

Examiner

Elizabeth M Cole

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. Claims 1-4, 6-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not teach how to adapt the ceramic and/or rare earth particles so that they reflect, amplify and convert the wave lengths of infrared radiation.

2. Claims 1-4, 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The independent claims recite that the rare earth element and/or ceramic particles are "adapted to reflect, amplify and convert the wave lengths of infrared radiation". It is not clear how the particles are adapted, i.e., in what ways are the particles modified, changed, etc., in order to adapt them.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhou et al,

U.S. Patent No. 6,120,531 in view of Robinson et al, U.S. Patent No. 6,179,879

Zhou et al discloses impregnating a fibrous material with particles from the rare earth elements of the lanthanum and actinium series. See col. Col. 2, lines 59-67 and col. 6, lines 54-57. Zhou et

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al teaches that incorporating these particles into fibrous materials and then forming the fibrous materials into garments such as gloves, shoes, belts, etc., provides a beneficial effect to persons wearing the garment due to the radiation which is emitted by the particles when stimulated by energy, such as body heat. See col. 2, lines 24-29. Zhou et al differs from the claimed invention because Zhou et al does not teach incorporating the particles into a leather material and does not teach the claimed amount of the functional particles. Further, Zhou et al does not teach incorporating a surface layer comprising a phase change material on the garment. Robinson et al teaches that functional particles which are responsive to body heat can be incorporated into the fibrous matrix of leather. Robinson et al teaches that suitable amounts of such particles are about 3-15 %. See col. 4, lines 29-31. Robinson teaches that a phase change material layer may be included in order to enhance the beneficial effect of the phase change material on the wearer of the garment. See col. 6, lines 62-65. Robinson et al further discloses the claimed method of making the leather comprising the functional particles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the functional particles of Zhou et al into the fibrous matrix of a leather substrate as taught by Robinson et al. One of ordinary skill in the art would have been motivated to incorporate the functional particles of Zhou et al into the matrix of Robinson et al in order to obtain the beneficial effects produced by the functional particles of Zhou et al for the wearer of leather garments.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 5:00 PM Monday through Thursday.

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Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for official faxes is (703) 872-9310. The fax number for official after final faxes is (703) 872-9311. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c

June 18, 2003